

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JAIME OBREGON ACOSTA, individually :
and on behalf of others similarly situated, :
:
Plaintiff, :
:
v. : Civil Action File No.:
: 1:22-cv-01209-TWT
SMART ALABAMA, LLC; and AGWM :
UNITED, LLC; TOTAL EMPLOYEE :
SOLUTION SUPPORT, LLC; WK LAW :
GROUP, PC; AND WOON KIM, :
:
Defendants. :

**DEFENDANT TOTAL EMPLOYEE SOLUTION SUPPORT, LLC'S
MOTION TO DISMISS COUNT I OF PLAINTIFF'S FIRST AMENDED
CLASS ACTION COMPLAINT**

Defendant Total Employee Solution Support, LLC ("TESS"), pursuant to Fed. R. Civ. P. 12(b)(6) hereby moves this Court to dismiss Count I of Plaintiff's First Amended Class Action Complaint for failure to state a claim.

Plaintiff does not have standing to sue TESS and has not sufficiently alleged a RICO or fraud claim against TESS. For these reasons, and for those set forth in more detail in TESS' Memorandum of Law contemporaneously filed with this Motion, TESS respectfully moves this Court for an order dismissing Plaintiff's First Amended Complaint with prejudice.

Respectfully submitted on this 16th day of September, 2022.

/s/ David R. Kresser

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EMPLOYEE SOLUTION SUPPORT, LLC

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I certify that **DEFENDANT TOTAL
EMPLOYEE SOLUTION SUPPORT, LLC'S MOTION TO DISMISS
COUNT I OF PLAINTIFF'S FIRST AMENDED CLASS ACTION
COMPLAINT** has been prepared using Times New Roman 14-point font in
compliance with Local Rule 5.1

/s/ David R. Kresser
David R. Kresser

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CERTIFICATE OF SERVICE

I certify that, on September 16, 2022, I electronically filed this **DEFENDANT
TOTAL EMPLOYEE SOLUTION SUPPORT, LLC'S MOTION TO
DISMISS COUNT I OF PLAINTIFF'S FIRST AMENDED CLASS ACTION
COMPLAINT** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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/s/ David R. Kresser
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